

REMARKS/ARGUMENTS

CLAIM OBJECTIONS

Claim 3 has now been amended both to remove the term “elongate” and to add detail as to the position of the opening in the unitary body portion of the brassiere. As now amended, it is believed that this claim will satisfactorily resolved the objection noted by the Examiner in this section of the Office Action under reply.

IN THE SPECIFICATION

In view of the Examiner’s reminder as to the language and format of an abstract, applicant has amended the Abstract in this case in an effort to eliminate the claim and means type language objected to in the Office Action. It is believed that the amended Abstract will now be found acceptable.

CLAIM REJECTIONS – 35 USC § 102

Claims 1-6 and 9 were rejected under 35 USC § 102 as being anticipated by Barbe-Vicuna (US 5,966,740) and Alpert (US 3,826,266).

Of these seven claims, Nos. 1, 2, 3 and 9 remain in the application, with Nos. 4-6 being cancelled.

Referring first to claim 1, it will be noted that the subject matter of claim 7 has been included in claim 1, with the recitation of the means for connecting the two ends of the body portion of the brassiere as comprising a flat center panel and a pair of receptor panels adapted to receive the center panel. Also, the panels each are now recited as having fastener material thereon to releasably lock the panels together upon insertion of the center panel between the receptor panels.

Barbe-Vicuna suggests several closure arrangements or fastening means for closing a brassiere, such as press studs, a zip fastener, Velcro and hooks and eyes, all of which are old and well known in the art. Nowhere does Barbe-Vicuna hint at or show any closure arrangement which could be construed as suggesting the novel structure, function and advantages of Applicant's closure using panel members which interleave not only to (1) provide a significant degree of overlap of the panel members to permit movement in adjusting tightness during securement of the brassiere around the chest but (2) present a smooth, attractive and non-irritating surface over the closure means regardless of the orientation of the brassiere while being worn. Thus, it is submitted that claim 1 clearly distinguishes from and is patentable over Barbe-Vicuna.

Claims 2, 3, 8, and 9 depend from claim 1 and further define various structural features and advantages of the present invention. Claims 2 and 3 specify the opening in the unitary body portion as being located, respectively, in the front of the body portion between its front sections and in the back section substantially midway of its length. In each claim the novel closure means of claim 1 is recited as being selectively used to close the opening. Claim 8 further specifies the fastener material of claim 1 as comprising loop and hook material, and claim 9 recites that the material, seaming and structure of the brassiere are sufficiently elastic to permit their rotation inside out. Also, claim 9 specifies that the brassiere provide a comfortable fit and feel regardless of its orientation. Thus, while Barbe-Vicuna, does show and describe both front and rear openings in a brassiere, nowhere does this patent suggest a closure arrangement of the type provided by the present invention for use in closing such openings. Thus, it is submitted that claims 2, 3, 8 and 9 clearly distinguish over Barbe-Vicuna.

Turning now to the patent to Alpert, the fastening means between the cups 12 and between the cups 12 and halter 15 are shown and described as snaps, zippers, hooks and eyes, hooks and loops, and self-adhering pads. As in Barbe-Vicuna, all such arrangements are old and well known in the art, and none hint at or show any closure which could be construed as suggesting the novel structure, function and advantages of Applicant's closure. As pointed out hereabove, applicant's invention is directed to a

much different structure involving panel members which interleave not only to (1) provide significant overlap of the panel members for greater freedom in adjusting tightness during securement of the brassiere around the chest but (2) present a smooth, attractive and non-irritating surface over the closure means regardless of the orientation of the brassiere while being worn.

As to the matter of elasticity, Alpert states in column 1, lines 62-65 that the back and sides of the halter 15 may be elasticized, but does not attempt to define any degree of elasticity or provide any reason for use of elastic components. Later, in column 2, lines 41-43, Alpert refers to back 15 or sides 16 as being elasticized to “insure proper fitting”. Particularly from the column 2 statement, it appears that Alpert’s reason for proposing elasticity was simply to provide some degree of stretch in the brassiere to accommodate, within a given size range, different chest girths – an old feature long used in the brassiere art. Certainly, there is no hint in Alpert that the elasticity was intended for or could even be construed as suitable for providing a brassiere, including cups, which could either be totally reversed to change the orientation of the cups or stretched sufficiently to permit its passage over the shoulders and upper chest of the user.

The Examiner suggests that, as Alpert refers to elastic elements in the brassiere, there would be nothing to inhibit the brassiere from being reversed or turned inside out. Applicant believes it appropriate to point out, however, that contrary to the Examiner’s suggestion, the simple reference to elasticity in the Alpert brassiere can hardly be taken to imply, with no further support, the capability of providing the substantial amount of stretching which would be necessary to permit either inside out reversal or comfortable movement of a brassiere over the head, shoulders and arms of one attempting to don the garment.

For all of the above reasons, Applicant submits that neither Barbe-Vicuna nor Alpert is anticipatory of applicants invention as now defined in claims 1-3, 8, 9, and 11 and that such claims patentably distinguish from and should be allowed over these two

references. Further, it is submitted that new claim 16 likewise is patentable over Barbe-Vicuna and Alpert in view of its recitation of a continuous body portion and the elasticity of that body portion and related cups, neither feature being shown or suggested by these references.

CLAIM REJECTIONS - 35 USC § 103

Claims 10-15 were rejected under 35 USC §103(a) as being unpatentable over Alpert in view of Murray (3,311,112). Of these 6 claims, all but claim 11 have been cancelled. Claim 11 is now dependent from Claim 8 and, as such, is believed allowable over Alpert, whether taken singly or in combination with Murray, for the same reasons as discussed above with respect to Claim 8.

With respect to the objection to claims 7 and 8, the Examiner indicated the subject matter of these claims would be allowable if written in independent form including all of the limitations of the base claim and any intervening claims. As stated above the subject matter of claim 7 has now been combined with claim 1, and claim 8 has been retained in the case as dependent from claim 1. As pointed out earlier by Applicant, claim 1 should now be allowable over any of the cited references, and dependent claim 8 likewise should be allowable.

Referring now to the prior art made of record but not relied upon in the Office Action, Applicant would comment thereon, as follows:

1. Flaherty – 6,517,409. This patent shows a brassiere having straps which are intended to appear like and/or match clothing. The straps are interchangeable and usable with clothing and thus are removable from the brassiere. While it might be said that this patent is of interest with respect to currently pending claim 9, this claim includes the subject matter of claim 1 and clearly distinguishes over Flaherty.

2. Vayda – 6,131,206. Shown in this patent is a garter belt for holding up heavy rough stockings, such holding action being effected by a plurality of dependent garters which include several pairs of strips, each pair containing hook material. In being attached to the stockings, the strips are separated and one is placed on each side of and engaged with the rough material of the stocking. There is nothing in this patent to suggest closure of an opening using overlapping panels in a body encircling garment.
3. Weintraub – 4,411,269. This patent includes a front opening brassiere provided with shoulder straps which are described as being adjustable but not removable. As such this patent appears to have little relevance to any of the claims now present in this case.
4. Hurwitz – 3,040,750. Hurwitz teaches a brassiere which includes a body encircling band having a small section of elastic material. The patentee does not indicate the purpose of the elastic section, but obviously it is included to provide a bit of “give” in the chest encircling band. As such, the disclosure in this patent is far removed from the elasticity characteristics and functions covered in Applicant’s claims.

CONCLUSION

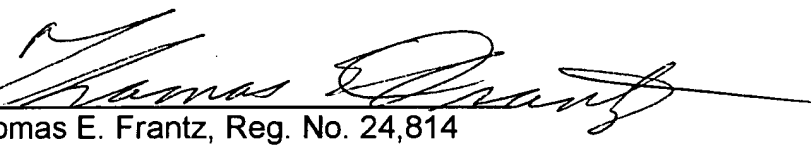
Claims 1-3, 8, 9, 11 and 16 now remain in this application. Of these claims, numbers 1 and 8 are based on subject matter indicated by the Examiner to be allowable. Thus, claims 1 and 8 should now be allowable. The other remaining claims (except 16) are dependent directly or indirectly from Claim 1. Accordingly they too should now be allowable. With respect to claim 16, none of the references suggest or show a brassiere having a continuous body encircling band which, along with the attached cups, is resiliently expandable for both reorientation and over the head placement on the chest. Thus claim 16 also should be allowable.

Accordingly, for all of the above reasons, Applicant believes the present application to be in condition for allowance and such action is respectfully requested.

Respectfully submitted

TERI A. HUFFMAN-JIMENEZ

BY



Thomas E. Frantz, Reg. No. 24,814

Phone: 319-372-1890

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